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MINISTRY OF HOME AFFAIRS

NOTIFICATION

New Delhi, the 28th December 1962

G.S.R. 1813.—In exercise of the powers conferred by section 3 of the Defence of India Act, 1962 (51 of 1962), the Central Government hereby makes the following rules further to amend the Defence of India Rules, 1962 (published with the notification of the Government of India in the Ministry of Home Affairs No. GSR 1465, dated the 5th November, 1962), namely:—

1. These rules may be called the Defence of India (Second Amendment) Rules, 1962.
2. In rule 2 of the Defence of India Rules, 1962 (hereinafter referred to as the said rules), clauses (1) and (2) shall be omitted.
3. In rule 30 of the said rules,—
 - (a) in sub-rule (1), for the words "maintenance of peaceful conditions in any part of India or the efficient conduct of military operations", the words "maintenance of peaceful conditions in any part of India, the efficient conduct of military operations or the maintenance of supplies and services essential to the life of the community", shall be substituted;
 - (b) after sub-rule (6), the following sub-rule shall be inserted, namely,—

"(6A) An order under clause (b) of sub-rule (1) may be executed at any place in India in the manner provided for the execution of warrants of arrest under the Code of Criminal Procedure, 1898.";
 - (c) in sub-rule (7), for the words "order made under this rule," the words, brackets, letter and figure "order made under this rule, other than an order under clause (b) of sub-rule (6)," shall be substituted.
4. After rule 30 of the said rules, the following rule shall be inserted, namely:—

"30A. *Review of detention orders.*—(1) In this rule—

 - (a) "detention order" means an order made under clause (b) of sub-rule (1) of rule 30;
 - (b) "State Government" does not include the Administrator of a Union territory (hereafter in this rule referred to as the Administrator).

(2) Every detention order shall be reviewed in accordance with the provisions hereinafter contained.

- (3) A detention order made by the Central Government or the State Government or the Administrator shall be reviewed by the Central Government or the State Government or the Administrator, as the case may be.
 - (4) A detention order made by an officer (who shall in no case be lower in rank than that of a District Magistrate) empowered by the State Government or the Administrator shall be reviewed—
 - (a) in the case of an order made by an officer empowered by the State Government, by a reviewing authority consisting of any such two officers from among the following officers of that Government, that is to say, the Chief Secretary, a member of the Board of Revenue, a Financial Commissioner and a Commissioner of a Division, as may be specified by that Government by notification in the Official Gazette;
 - (b) in the case of an order made by an officer empowered by the Administrator, by the Administrator himself.
 - (5) Where a detention order is made by an officer empowered by the State Government or the Administrator, that officer shall forthwith report the fact to the reviewing authority referred to in clause (a) of sub-rule (4) or, as the case may be, to the Administrator.
 - (6) On the receipt of a report under sub-rule (5)—
 - (a) the reviewing authority referred to in clause (a) of sub-rule (4) shall, after taking into account all the circumstances of the case, recommend to the State Government that the detention order may be confirmed or cancelled and thereupon that Government shall either confirm or cancel the order as it may deem fit in the light of the recommendation;
 - (b) the Administrator shall, after taking into account all the circumstances of the case, either confirm the detention order or cancel it.
 - (7) Every detention order made by an officer empowered by a State Government and confirmed by it under clause (a) of sub-rule (6), unless such order is cancelled in the meantime by that Government, shall be reviewed by the reviewing authority referred to in clause (a) of sub-rule (4) at intervals of not more than six months and in the light of the recommendation of that authority, the State Government shall decide whether the order should be continued or cancelled.
 - (8) Every detention order made by an officer empowered by the Administrator and confirmed by him under clause (b) of sub-rule (6) and every detention order made by the Administrator himself, shall be reviewed at intervals of not more than six months by the Administrator who shall decide upon such review whether the order should be continued or cancelled.
 - (9) Every detention order made by the Central Government or the State Government shall be reviewed at intervals of not more than six months by the Government who made the order and upon such review that Government shall decide whether the order should be continued or cancelled.
 - (10) Notwithstanding anything contained in the foregoing provisions of this rule, any detention order may at any time be cancelled—
 - (a) by the Central Government, where the order has been made by that Government;
 - (b) by the State Government, where the order has been made by that Government or any officer empowered by it;
 - (c) by the Administrator, where the order has been made by the Administrator or any officer empowered by him."
5. In rule 35 of the said rules,—
- (a) in sub-clause (c) of clause (2), for the words "confidential document", the words "confidential document belonging to, or the contents of any document" shall be substituted;
 - (b) in sub-clause (g) of clause (5), after the word "invention," the word "design," shall be inserted and for the words "use of", the words "use of, or the result of any scientific or technological research relating to," shall be substituted.

6. In sub-rule (1) of rule 36 of the said rules,—

- (a) in clause (a), after the word "machinery," the words "scientific equipment," shall be inserted;
- (b) in clause (d), after the words "mine or factory" at the end, the words "or any laboratory or institution where scientific or technological research is conducted" shall be inserted.

7. After rule 40 of the said rules, the following rule shall be inserted, namely:—

"40A. *Acts likely to assist military operations of the enemy.*—If any person does any act which is likely to give assistance to the naval, military or air operations of the enemy, he shall be punishable with imprisonment for a term which may extend to seven years, or with fine, or with both."

8. In clause (a) of sub-rule (1) of rule 41 of the said rules, for the word "acts", the word "act" shall be substituted.

9. After clause (e) of sub-rule (1) of rule 45 of the said rules, the following clauses shall be inserted, namely:—

- "(f) direct the keeper of the press used for the purpose of printing or publishing such document to deposit as security, within such period as that Government may in each case specify, such amount (which may at the option of the keeper of the press be deposited either in money or in Government securities) as that Government may think fit to require;
- (g) where such security has been deposited, declare the same to be forfeited to Government if the press or premises are thereafter used for any such purpose;
- (h) where such security has not been deposited or where the press or premises are used for any such purpose even after the security has been forfeited under clause (g), direct that the press or premises shall be closed down."

10. In sub-rule (1) of rule 53 of the said rules, for the words and figures "sections 388 and 389", the word and figures "section 397" shall be substituted.

11. After sub-rule (4) of rule 57 of the said rules, the following Explanation shall be inserted, namely:—

"*Explanation.*—In this sub-rule, "prisoners" shall mean prisoners confined by order of a Court."

12. After rule 105 of the said rules, the following rule shall be inserted, namely:—

"105-A. *Seizure of Aircraft.*—(1) The Central Government may, by order, require the seizure of any aircraft belonging to the enemy, or any aircraft or class of aircraft which is owned, controlled or operated by, or is in the possession or custody of, any person domiciled or resident in an enemy territory, or any aircraft or class of aircraft, the operation of which is likely to aid or assist the enemy or is likely to be prejudicial to the defence of India or public safety.

(2) Without prejudice to the generality of the foregoing powers, an order made under sub-rule (1) may—

- (i) provide for any authority, or empower any authority specified therein, by which any of the powers conferred by this rule is to be exercised;
- (ii) require any aircraft or class of aircraft to be placed at the disposal of any authority specified therein."

13. In the third proviso at the end of rule 111, and in the second proviso to rule 112, of the said rules, after the words "assessing the compensation", the brackets and words "(or within such further period as the Tribunal may, for sufficient cause, allow)" shall be inserted.

14. In rule 125 of the said rules,—

- (a) at the end of sub-rule (2), the following shall be inserted, namely:—
"or for preventing any corrupt practice or abuse of authority in respect of any such matter";

(b) In sub-rule (3),—

(1) after clause (a), the following clause shall be inserted, namely:—

“(aa) for regulating or prohibiting any class of commercial or financial transactions in respect of any article or thing which, in the opinion of the Government are, or, if not regulated or prohibited, are likely to be, detrimental to any of the purposes specified in sub-rule (2);”;

(ii) in clause (c), after the words “as may be specified in the order”, the following shall be inserted, namely:—

“and if the order relates to food-grains, at such price as may be specified in the order having regard to—

(i) the maximum price, if any, fixed by order under clause (e) or by or under any other law for the time being in force, for the grade or variety of foodgrains to which the order under this clause applies; and

(ii) the price for that grade or variety of foodgrains prevailing or likely to prevail during the post-harvest period in the area to which the order applies;”;

(iii) after clause (d), the following clauses shall be inserted namely:—

“(dd) for securing the production, manufacture, supply or sale according to the prescribed standards and specifications, of any article or thing appearing to the Government essential to any of the purposes specified in sub-rule (2);

(ddd) for the minimum and maximum stock of any article or thing appearing to the Government essential to any of the purposes specified in sub-rule (2), to be held by any consumer or by any producer, manufacturer, distributor, dealer or other person;”;

(c) for sub-rule (9), the following sub-rule shall be substituted, namely:—

“(9) (a) If any person contravenes any order made under this rule, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both:

Provided that if any person contravenes any order made under this rule by resorting to any corrupt practice or other *mala fide* action or by influencing any person to abuse his authority, he shall be punishable with imprisonment for a term which may extend to seven years, or with fine, or with both.

(b) If any order made under this rule so provides, any court trying a contravention of the order may direct that any property in respect of which the Court is satisfied that the order has been contravened shall be forfeited to Government.”.

15. After rule 125 of the said rules, the following rule shall be inserted, namely:—

“125A. *Management of Essential Undertakings*.—(1) In this rule, unless the context otherwise requires, “undertaking” means—

(a) any undertaking (including an undertaking vested in, or controlled or managed by, a local authority) which is engaged in the production, generation, supply, distribution or provision of water, transport, fuel, light, electricity or other power, or any other thing or service which is notified by the Government as essential to the life of the community;

(b) any system of public conservancy and sanitation and any hospital or dispensary;

and also includes any part or property of an undertaking.

(2) If it appears to the Central Government or the State Government that for maintaining supplies and services essential to the life of the community, it is necessary to take over the management of any undertaking, that Government may, by notified order, authorise any person or body of persons to take over the management of any undertaking specified in the order and thereupon such undertaking shall be managed in accordance with the provisions of that order:

Provided that powers under this sub-rule shall not be exercised by the State Government in respect of a company to which the Companies Act, 1956 applies.

- (3) Any notified order issued under sub-rule (2) shall have effect unless it is cancelled earlier, for such period as may be specified in the order or for the period of operation of the Defence of India Act, 1962, whichever is less:

Provided that if the Government is of opinion that it is expedient in the public interest so to do, it may from time to time extend the period of operation of an order issued under sub-rule (2) for such period as may be specified by a subsequent order, but in no case extending beyond the period of operation of the Defence of India Act, 1962.

- (4) On the issue of a notified order under sub-rule (2) authorising the taking over of the management of an undertaking,—

(a) all persons in charge of the management (whether known as managers, directors, or by any other designation) of that undertaking immediately before the issue of the notified order, shall be deemed to have vacated their office as such;

(b) any statutory or other authority in charge of the management of such an undertaking shall cease to exercise any powers of management in relation thereto and the Government may, by that or any other order, make such provisions in relation to that authority as it may deem fit;

(c) any contract of management between the undertaking any any managing agent or any director thereof holding office as such immediately before the issue of the notified order shall be deemed to have been terminated;

(d) the person or body of persons authorised under sub-rule (2) to take over the management shall take all such steps as may be necessary to take into his or their custody or control all the property, effects and actionable claims to which the undertaking is or appears to be entitled, and all the property and effects of the undertaking shall be deemed to be in the custody of the person or, as the case may be, the body of persons as from the date of the notified order;

(e) the persons, if any, authorised under sub-rule (2) to take over the management of an undertaking which is a company shall be for all purposes the directors of the undertaking duly constituted under the Companies Act, 1956 and shall alone be entitled to exercise all the powers of the directors of the undertaking, whether such powers are derived from the said Act or from the memorandum or articles of association of the undertaking or from any other source.

- (5) Subject to the other provisions of this rule and to the direction and control of the Central Government or the State Government, as the case may be, the person or body of persons authorised to take over the management of an undertaking shall take such steps as may be necessary for the purpose of efficiently managing the functions of the undertaking and shall exercise such other powers and have such other duties as may be specified in the notified order under sub-rule (2).

- (6) The person or body of persons authorised under sub-rule (2) shall (notwithstanding anything contained in the memorandum or articles of association of the undertaking if it is a company), exercise his or their functions in accordance with such directions as may be given by the Government so, however, that he or they shall not have any power to give any other person any directions under this sub-rule inconsistent with the provisions of any Act or instrument determining the functions of the authority carrying on the undertaking except in so far as they may be specifically provided by the notified order under sub-rule (2).

- (7) No person who ceases to hold any office by reason of the provisions contained in clause (a) of sub-rule (4) or whose contract of management is terminated by reason of the provisions contained in clause (c) of that sub-rule and no authority who ceases to exercise any powers by reason of the provisions contained in clause (b) of that sub-rule, shall be entitled to any compensation for the loss of office or for the premature termination of his contract of management or for the cesser of the powers of management, as the case may be:

Provided that nothing contained in this sub-rule shall affect the right of any such person or authority to recover from the undertaking monies recoverable otherwise than by way of such compensation

- (8) Where the management of an undertaking, being a company as defined in the Companies Act, 1956, is taken over by the Central Government, then, notwithstanding anything contained in the said Act or in the memorandum or articles of association of such undertaking,—
- (a) it shall not be lawful for the shareholders of such undertaking or any other person to nominate or appoint any person to be a director of that undertaking;
 - (b) no resolution passed at any meeting of the shareholders of such undertaking shall be given effect to unless approved by the Central Government;
 - (c) no proceeding for the winding up of such undertaking or for the appointment of a receiver in respect thereof shall lie in any Court except with the consent of the Central Government;

and subject to the provisions aforesaid and subject to such other exceptions, restrictions and limitations, if any, as the Central Government may, by notification, specify in this behalf, the Companies Act, 1956, shall continue to apply to such undertaking in the same manner as it applied thereto before the issue of the notified order under sub-rule (2).

- (9) If at any time it appears to the Central Government or the State Government, as the case may be, that the purpose of the order made under sub-rule (2) has been fulfilled or that for any other reason it is not necessary that the order should remain in force, the Central Government or the State Government, as the case may be, may, by notified order, direct that the order made under sub-rule (2) shall stand cancelled with effect from such date as may be specified therein and on the cancellation of the order made under sub-rule (2), the undertaking shall be managed in accordance with the provisions of the Act or other instrument, if any, by which it was managed immediately before the issue of that order, so however that steps, if any, in relation to the management of the undertaking may be taken on the making of the order of cancellation under this sub-rule."

16. After rule 126 of the said rules, the following rule shall be inserted, namely:

"126-A. Essential Services.—(1) This rule applies to all employment under the Central Government or the State Government and to any employment or class of employment which the Central Government or the State Government, being of opinion that such employment or class of employment is essential for securing the defence of India and civil defence, the public safety, the maintenance of public order, or the efficient conduct of military operations, or for maintaining supplies and services necessary to the life of the community, may, by notification, declare to be an employment or class of employment to which this rule applies.

Explanation.—For the purpose of this rule, "employment" includes employment of any nature, and whether paid or unpaid.

- (2) The Central Government or the State Government may, by general or special order, direct that any person or persons engaged in any employment to which this rule applies, shall not depart out of such area or areas as may be specified in such order. Any order issued under this sub-rule shall be published in such manner as the Government making the order considers best calculated to bring it to the notice of the persons affected by the order.
- (3) Any person engaged in any employment or class of employment to which this rule applies, who,—
- (a) disobeys any lawful order given to him in the course of such employment, or
 - (b) without reasonable excuse abandons any such employment or absents himself from work, or
 - (c) departs from any area specified in an order under sub-rule (2) without the consent of the authority making that order,
- and any employer of any person engaged in an employment or class of employment to which this rule applies, who without reasonable cause,—
- (i) discontinues the employment of such person, or
 - (ii) by closing an establishment in which such person is engaged causes the discontinuance of his employment,
- shall be deemed to have contravened this rule.

Explanation 1.—The fact that a person apprehends that by continuing in his employment he may be exposed to increased physical danger is not a reasonable excuse within the meaning of clause (b).

Explanation 2.—A person abandons his employment within the meaning of clause (b), who notwithstanding that it is an express or implied term of his contract of employment that he may terminate his employment on giving notice to his employer of his intention to do so, so terminates his employment without the previous consent of his employer.

- (4) The Central Government or the State Government may by order regulate the wages and other conditions of service of persons or of any class of persons engaged in any employment or class of employment to which this rule applies.
- (5) If any person contravenes any provision of this rule or of any order made under this rule, he shall be punishable, without prejudice to any action which may be taken against him under any other law for the time being in force, with imprisonment for a term which may extend to one year, or with fine, or with both."

17. In rule 134 of the said rules, after sub-rule (2), the following sub-rules shall be inserted, namely:—

- "(3) The Central Government or the State Government may, with a view to obtaining any space or accommodation under sub-rule (1) or to determining the compensation payable therefor, by order require any person to furnish to such authority as may be specified in the order such information in his possession as may be so specified.
- (4) If any person contravenes any order made in pursuance of this rule, he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.
- (5) In this rule "competent authority" means the Central Government or the State Government or any person appointed by the Central Government or the State Government to exercise the powers of competent authority under this rule."

18. After rule 134 of the said rules, the following rule shall be inserted, namely:—

"134-A. *Eviction of unauthorised persons from public premises.*—(1) Where the Central Government is of opinion that any public premises [as defined in the Public Premises (Eviction of Unauthorised Occupants) Act, 1958] are required for any purpose connected with the defence of India and civil defence, the public safety or interest, the efficient conduct of military operations or the maintenance of supplies and services essential to the life of the community, and the Central Government is satisfied that such premises are in unauthorised occupation as defined in that Act, the Central Government may, after recording the reasons for such satisfaction, make an order of eviction directing that the public premises shall be vacated by all persons who may be in occupation thereof or of any part thereof within such period as may be specified in the order.

- (2) If any person refuses or fails to comply with the order of eviction within the period specified therein, any officer authorised by the Central Government in this behalf (hereafter in this rule referred to as the authorised officer) may evict that person from, and take possession of, the public premises and may for that purpose use such force as may be necessary.
- (3) If any obstruction is offered or, in the opinion of the authorised officer, is likely to be offered, to the taking possession of the public premises, the authorised officer may obtain necessary police assistance.
- (4) Where any public premises of which possession is to be taken over is found locked or bolted from inside, the authorised officer may, in the presence of two witnesses, break open the lock or open or cause to be opened any door, gate or other barrier and enter the premises:

Provided that—

- (i) as far as possible no entry shall be made into, or no possession shall be taken of, a public premises before sunrise or after sunset;
- (ii) where any public premises are forced open, an inventory of the property and articles found in the premises shall be made in the presence of two witnesses and after giving not less than three days' notice to the persons from whom possession of the public premises has been taken to remove the property and articles, the authorised officer may remove or cause to be removed or dispose of by public auction any property or articles remaining in such premises; and the sale proceeds, if any, shall, after deducting the expenses of the sale and the amount, if any, due to the Central Government on account of arrears of rent and damages, be deposited in the principal civil court of original jurisdiction in the district in which the premises are situated, for payment to such person or persons as are entitled to receive the same.
- (5) If any person does not vacate the public premises in compliance with an order made under sub-rule (1), such person shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.
- (6) Where any person in unauthorised occupation of any public premises has been evicted under this rule, then, without prejudice to any other law for the time being in force, damages may be recovered from that person for such unauthorised occupation in accordance with the provisions of the Public Premises (Eviction of Unauthorised Occupants) Act, 1958."

19. After rule 142 of the said rules, the following rule shall be inserted, namely:—

"142-A. Liability of Government servants to serve anywhere under Government.—(1) The appropriate Government may by order require any person in the service of the Government (other than persons who, not being citizens of India, are in the service of the Government outside India) to serve in any post under that Government or under any other Government in India and at any place either in India or abroad and every such person shall comply with such order.

(2) If any person contravenes any order made under this rule, he shall be punishable, without prejudice to any action that may be taken against him under any other law for the time being in force, with imprisonment for a term which may extend to one year, or with fine, or with both.

(3) In this rule "the appropriate Government" means in relation to persons for the time being serving in connection with the affairs of the Union, the Central Government and in relation to persons serving in connection with the affairs of a State, the Government of that State."

20. In rule 152 of the said rules,—

- (a) for the figures "19", the figures "10, 26", shall be substituted; and
- (b) for the figures "140", the figures "140, 141" shall be substituted.

21. After rule 152 of the said rules, the following rule shall be inserted, namely:—

"152-A. Special provision for investigation of certain cases.—Notwithstanding anything contained in section 5A of the Prevention of Corruption Act, 1947 (2 of 1947), any police officer (including an officer belonging to the Delhi Special Police Establishment), not below the rank of an Inspector, shall be competent to investigate any offence specified in that section, if such offence is committed in connection with any alleged contravention of any of these rules or any order or direction made or given thereunder."

[No. F. 3/3/62-Pol(Spl).]

HARI SHARMA, Addl. Secy.